

1 Joseph A. Kanefield (#015838)
2 Office of Governor Janice K. Brewer
3 1700 W. Washington, 9th Floor
4 Phoenix, Arizona 85007
5 Telephone: (602) 542-1586
6 Fax: (602) 542-7602
7 *jkane@az.gov*

8 THOMAS C. HORNE
9 Attorney General
10 David R. Cole (#004643)
11 Solicitor General
12 1275 W. Washington
13 Phoenix, Arizona 85007
14 Telephone: (602) 542-3333
15 Fax: (602) 542-8308
16 *SolicitorGeneral@azag.gov*

17 *Attorneys for Defendant Janice K. Brewer,*
18 *Governor of the State of Arizona*

19 **UNITED STATES DISTRICT COURT**
20
21 **FOR THE DISTRICT OF ARIZONA**

22 FREEDOM FROM RELIGION
23 FOUNDATION, INC., a Wisconsin non-
24 profit corporation, MIKE WASDIN, an
25 individual, JOHN S. COMPERE, an
26 individual, MICHAEL RENZULLI, an
27 individual, and JUSTIN GRANT, an
28 individual,

Plaintiffs,

vs.

JANICE K. BREWER, Governor of the State
of Arizona,

Defendant.

Case No. 2:11-cv-00495-ROS-PHX

**GOVERNOR JANICE K.
BREWER'S ANSWER TO
PLAINTIFFS' COMPLAINT**

1 Defendant, Arizona Governor Janice K. Brewer (“Governor”) responds and
2 answers Plaintiffs’ Complaint as follows:
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4 1. The Governor denies knowledge or information sufficient to form a
5 belief as to the truth of the allegations in paragraph 1, and therefore denies same.

6 2. The Governor denies knowledge or information sufficient to form a
7 belief as to the truth of the allegations in paragraph 2, and therefore denies same.
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9 3. The Governor denies knowledge or information sufficient to form a
10 belief as to the truth of the allegations in paragraph 3, and therefore denies same.

11 4. The Governor denies knowledge or information sufficient to form a
12 belief as to the truth of the allegations in paragraph 4, and therefore denies same.
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14 5. The Governor denies knowledge or information sufficient to form a
15 belief as to the truth of the allegations in paragraph 5, and therefore denies same.
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17 6. The Governor denies knowledge or information sufficient to form a
18 belief as to the truth of the allegations in paragraph 6, and therefore denies same.

19 7. The Governor admits the allegation in paragraph 7.

20 8. The Governor admits the allegation in paragraph 8.

21 9. The Governor asserts that paragraph 9 contains a legal conclusion, and
22 therefore denies that paragraph 9 contains any factual allegations to which a
23 responsive pleading is required.
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1 10. The Governor denies that paragraph 10 contains any factual allegations
2 to which a responsive pleading is required. Alternatively, the Governor admits that the
3 statute cited in paragraph 10 gives federal courts jurisdiction over legal claims of the
4 type asserted by plaintiffs, but the Governor denies that this Court, in the present
5 action, has jurisdiction over plaintiffs' claims against the Governor.
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7 11. The Governor admits that venue in the District Court for the District of
8 Arizona is proper if jurisdiction is found to exist.
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10 12. The Governor admits that the First Amendment became effective in
11 1791, but denies that paragraph 12 contains any other factual allegations to which a
12 responsive pleading is required. With regard to any legal assertions that may be
13 contained or implied in the paragraph, the Governor asserts that the Establishment
14 Clause and the judicial decisions interpreting and applying that provision speak for
15 themselves.
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18 13. The Governor denies that paragraph 13 contains any factual allegations
19 to which a responsive pleading is required. With regard to any legal assertions that
20 may be contained or implied in the paragraph, the Governor asserts that the
21 Establishment Clause and the judicial decisions interpreting and applying that
22 provision speak for themselves.
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1 14. The Governor denies that paragraph 14 contains any factual allegations
2 to which a responsive pleading is required. With regard to any legal assertions that
3 may be contained or implied in the paragraph, the Governor asserts that the
4 Establishment Clause and the judicial decisions interpreting and applying that
5 provision speak for themselves.
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7 15. The Governor denies knowledge or information sufficient to form a
8 belief as to the truth of any factual allegations in paragraph 15, and therefore the
9 Governor denies same.
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11 16. In response to paragraph 16, the Governor admits that Governor Brewer
12 issued 2009 and 2010 prayer proclamations that coincided with the National Day of
13 Prayer proclamations issued by President Obama. The Governor denies knowledge or
14 information sufficient to form a belief as to the truth of the remaining allegations in
15 paragraph 16, and therefore the Governor denies same.
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18 17. The Governor admits the allegation in paragraph 17.

19 18. The Governor admits the allegation in paragraph 18, but notes that
20 *Freedom from Religion Foundation v. Obama*, No. 08-cv-588-bbc, was vacated by the
21 United States Court of Appeals for the Seventh Circuit on April 14, 2011, in *Freedom*
22 *from Religion Foundation v. Obama*, 2011 WL 1405156 (7th Cir. 2011) (copy
23 attached), and remanded with instructions to dismiss for want of a justiciable
24 controversy.
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1 19. In response to paragraph 19, the Governor admits that she issued a
2 proclamation on January 17, 2010, proclaiming a Day of Prayer for the Arizona
3 Economy and State Budget, and that the proclamation “encourage[s] all citizens to
4 pray for God’s blessings on our State and our Nation.”

6 20. The Governor denies that paragraph 20 contains any factual allegations
7 to which a responsive pleading is required. Paragraph 20 attempts to summarize the
8 holding of *Lemon v. Kurtzman*, 403 U.S. 602 (1971), which is not complete. The
9 Governor denies that this three-pronged test has been unanimously accepted as the sole
10 means of determining compliance with the Establishment Clause.
11

13 21. The Governor denies that paragraph 21 contains any factual allegations
14 to which a responsive pleading is required. With regard to any legal assertions
15 contained or implied in paragraph 21, the Governor asserts that the Establishment
16 Clause and the judicial decisions interpreting and applying that provision speak for
17 themselves. In the alternative, the Governor denies the allegations of paragraph 21.
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19 22. The Governor denies that paragraph 22 contains any factual allegations
20 to which a responsive pleading is required. With regard to any legal assertions that
21 may be contained or implied in the paragraph, the Governor asserts that the
22 Establishment Clause and the judicial decisions interpreting and applying that
23 provision speak for themselves. In the alternative, the Governor denies the allegations
24 of the paragraph.
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1 23. The Governor denies that paragraph 23 contains any factual allegations
2 to which a responsive pleading is required. With regard to any legal assertions that
3 may be contained or implied in the paragraph, the Governor asserts that the
4 Establishment Clause and the judicial decisions interpreting and applying that
5 provision speak for themselves. In the alternative, the Governor denies the allegations
6 of the paragraph.
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9 24. The Governor denies knowledge or information sufficient to form a
10 belief as to the truth of any factual allegations that may be contained in paragraph 24,
11 and therefore the Governor denies same. With regard to any legal assertions that may
12 be contained or implied in the paragraph, the Governor asserts that the Establishment
13 Clause and the judicial decisions interpreting and applying that provision speak for
14 themselves. In the alternative, the Governor denies the allegations of the paragraph.
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17 25. The Governor denies knowledge or information sufficient to form a
18 belief as to the truth of any factual allegations that may be contained in paragraph 25,
19 and therefore the Governor denies same. With regard to any legal assertions that may
20 be contained or implied in the paragraph, the Governor asserts that the Establishment
21 Clause and the judicial decisions interpreting and applying that provision speak for
22 themselves. In the alternative, the Governor denies the allegations of the paragraph.
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1 26. The Governor denies knowledge or information sufficient to form a
2 belief as to the truth of any factual allegations that may be contained in paragraph 26,
3 and therefore the Governor denies same. With regard to any legal assertions that may
4 be contained or implied in the paragraph, the Governor asserts that the Establishment
5 Clause and the judicial decisions interpreting and applying that provision speak for
6 themselves. In the alternative, the Governor denies the allegations of the paragraph.
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8 27. The Governor denies knowledge or information sufficient to form a
9 belief as to the truth of any factual allegations that may be contained in paragraph 27,
10 and therefore the Governor denies same. With regard to any legal assertions that may
11 be contained or implied in the paragraph, the Governor asserts that the Establishment
12 Clause and the judicial decisions interpreting and applying that provision speak for
13 themselves. In the alternative, the Governor denies the allegations of the paragraph.
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15 28. The Governor denies knowledge or information sufficient to form a
16 belief as to the truth of any factual allegations that may be contained in paragraph 28,
17 and therefore the Governor denies same. With regard to any legal assertions that may
18 be contained or implied in the paragraph, the Governor asserts that the Establishment
19 Clause and the judicial decisions interpreting and applying that provision speak for
20 themselves. In the alternative, the Governor denies the allegations of the paragraph.
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22 29. The Governor denies that paragraph 29 contains any factual allegations
23 to which a responsive pleading is required and asserts that Article II, Section 12, of the
24 Arizona Constitution speaks for itself.
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30. The Governor denies the allegations in paragraph 30.

31. The Governor denies that paragraph 31 contains any factual allegations to which a responsive pleading is required and asserts that Article XX, Section 1, of the Arizona Constitution speaks for itself.

32. The Governor denies knowledge or information sufficient to form a belief as to the truth of any factual allegations that may be contained in paragraph 32, and therefore the Governor denies same. With regard to any legal assertions that may be contained or implied in the paragraph, the Governor asserts that the Establishment Clause and the judicial decisions interpreting and applying that provision speak for themselves. In the alternative, the Governor denies the allegations of the paragraph.

33. The Governor denies knowledge or information sufficient to form a belief as to the truth of any factual allegations that may be contained in paragraph 33, and therefore the Governor denies same. With regard to any legal assertions that may be contained or implied in the paragraph, the Governor asserts that the Establishment Clause and the judicial decisions interpreting and applying that provision speak for themselves. In the alternative, the Governor denies the allegations of the paragraph.

1 34. The Governor denies knowledge or information sufficient to form a
2 belief as to the truth of any factual allegations that may be contained in paragraph 34,
3 and therefore the Governor denies same. With regard to any legal assertions that may
4 be contained or implied in the paragraph, the Governor asserts that the Establishment
5 Clause and the judicial decisions interpreting and applying that provision speak for
6 themselves. In the alternative, the Governor denies the allegations of the paragraph.
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8 35. The Governor denies knowledge or information sufficient to form a
9 belief as to the truth of any factual allegations that may be contained in paragraph 35,
10 and therefore the Governor denies same. With regard to any legal assertions that may
11 be contained or implied in the paragraph, the Governor asserts that the Establishment
12 Clause and the judicial decisions interpreting and applying that provision speak for
13 themselves. In the alternative, the Governor denies the allegations of the paragraph.
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15 36. The Governor denies knowledge or information sufficient to form a
16 belief as to the truth of any factual allegations that may be contained in paragraph 36,
17 and therefore the Governor denies same. With regard to any legal assertions that may
18 be contained or implied in the paragraph, the Governor asserts that the Establishment
19 Clause and the judicial decisions interpreting and applying that provision speak for
20 themselves. In the alternative, the Governor denies the allegations of the paragraph.
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22 37. In response to paragraph 37, the Governor asserts that her proclamations
23 speak for themselves and denies the remaining allegations in paragraph 37.
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1 38. The Governor admits that she plans to issue a proclamation designating
2 May 5, 2011, as Arizona Day of Prayer, but denies the remaining allegations in
3 paragraph 38.
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5 39. The Governor denies the allegations in paragraph 39.

6 40. The Governor denies the allegations in paragraph 40.

7 41. The Governor denies knowledge or information sufficient to form a
8 belief as to the truth of the allegations in paragraph 41, and therefore the Governor
9 denies same.
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11 42. In response to paragraph 42, the Governor denies knowledge or
12 information sufficient to form a belief as to the truth of any factual allegations about
13 the actions, organizational interests, or mission of FFRF, and therefore the Governor
14 denies same. With regard to all legal assertions contained or implied in the paragraph,
15 the Governor asserts that the Establishment Clause and the judicial decisions
16 interpreting and applying that provision and that the Arizona Constitution and the
17 judicial decisions interpreting and applying that constitution speak for themselves. In
18 the alternative, the Governor denies the allegations of the paragraph.
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22 43. The Governor denies the allegations in paragraph 43.
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1 44. The Governor denies knowledge or information sufficient to form a
2 belief as to the truth of any factual allegations that may be contained in paragraph 44,
3 and therefore the Governor denies same. With regard to any legal assertions that may
4 be contained or implied in the paragraph, the Governor asserts that the Establishment
5 Clause and the judicial decisions interpreting and applying that provision speak for
6 themselves. In the alternative, the Governor denies the allegations of the paragraph.
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8 45. The Governor denies knowledge or information sufficient to form a
9 belief as to the truth of any factual allegations that may be contained in paragraph 45,
10 and therefore the Governor denies same. With regard to any legal assertions that may
11 be contained or implied in the paragraph, the Governor asserts that the Establishment
12 Clause and the judicial decisions interpreting and applying that provision speak for
13 themselves. In the alternative, the Governor denies the allegations of the paragraph.
14

15 46. The Governor denies that paragraph 46 contains any factual allegations
16 to which a responsive pleading is required. With regard to all legal assertions
17 contained or implied in the paragraph, the Governor asserts that the United States and
18 Arizona Constitutions and the judicial decisions interpreting and applying them speak
19 for themselves.
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1 6. The Governor asserts that plaintiffs' claims against all past
2 proclamations issued by the Governor are moot and untimely, and that all claims
3 against future proclamations are not ripe.
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5 Respectfully submitted this 21st day of April, 2011.
6

7
8 By s/ Joseph A. Kanefield
9 Joseph A. Kanefield
10 Office of Governor Janice K. Brewer
11 1700 W. Washington, 9th Floor
12 Phoenix, AZ 85007

13 By s/ David R. Cole w/permission
14 THOMAS C. HORNE
15 Attorney General
16 David R. Cole (004643)
17 Solicitor General
18 1275 W. Washington
19 Phoenix, Arizona 85007
20 Telephone: (602) 542-3333
21 FaX: (602) 542-8308
22 SolicitorGeneral@azag.gov

23 *Attorneys for Defendant Janice K. Brewer,*
24 *Governor of the State of Arizona*
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CERTIFICATE OF SERVICE

I hereby certify that on April 21, 2011, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the CM/ECF registrants on record.

s/Joseph Kanefield